Supreme Court, U.S.
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No.

IN THE
SUPREME COURT OF THE UNITED STATES

Logie W. Talley,

Petitioner,

v.

The Housing Authority of Columbus, Georgia

Respondent.

On Petition For Writ of Certiorari
To The United States Court of Appeals for the Eleventh Circuit

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INTRODUCTORY STATEMENT

The undisputed facts in this case establish that the Housing Authority of Columbus, Georgia, the respondent, in 1994 brought a condemnation action in the Superior Court of Muscogee County State of Georgia regarding the property owned by the petitioner, Logie W. Talley. The property was to be used for an urban renewal project. Judge E. Mullins Whisnat awarded condemnation in favor of the respondent. As was stated by the United States District Court for the Middle District of Georgia Columbus Division and the United State Court of Appeals for the Eleventh Circuit, the condemned property was to be used for an urban development renewal project authorized under Georgia Law. The respondent seized the property in question for more than 4 years and never used the property for anything, not even the urban development renewal project for which it was condemned. The respondent refused to return the subject property back to the petitioner. The petitioner was never given the opportunity to develop his own property by the Housing Authority of Columbus, Georgia or the City of Columbus, Georgia in accordance with the proposed plan.

QUESTIONS PRESENTED FOR REVIEW

1. Why would the United States District Court for the Middle District of Georgia Columbus Division and the United States Court of Appeals for the Eleventh Circuit ignore Georgia's own State law that authorizes urban renewal projects? This law guarantees that the condemnee must be permitted to develop his own land in accordance with the proposed plan, if he so desires and if he has the resources to do so.

2. Why would the United States Court of Appeals for the Eleventh Circuit only address the jurisdictional basis for the district court's decision when it was clear that the respondent had far exceeded the power granted to it by the Georgia legislature?

3. How could the final judgment of the Superior Court of Muscog County State of Georgia in 1994 authorize the action taken by the respondent against the petitioner after the respondent condemned tl petitioner's private property?

4. How could the action taken by the respondent against the petitioner not have violated the petitioner's constitutional rights as well as violated Georgia's own State laws?

5. How could the petitioner receive a fair trial in the lower courts when the lower courts would only address the condemnation proceeding in 1994?

6. Why would a lower court allow the respondent to compare this case to the New London Connecticut Case when there is no comparison?

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Opinions and Orders Below

On October 10, 2004, Judge Clay D. Land of the United States District Court for the Middle District of Georgia Columbus Division granted summary judgment in favor of respondent. The court's opinion and order can be found in the appendix.

On September 23, 2005, a panel of the United States Courts of Appeals ruled that the district court committed no reversible error in concluding that it lacked subject matter jurisdiction. The panel stated that they addressed only the jurisdictional basis for the district court's decision. The court order incorporating this decision can be found in the appendix.

In September 2005, the judges of the United States Court of Appeals for the Eleventh Circuit denied petitioner's request for a rehearing of decision, and this order can be found in the appendix.

JURISDICTION

As Judge Land pointed out in his Order of Judgment, the petitioner's private property was condemned to be used for an urban renewal project authorized under Georgia law. However, Judge Land did not mention the respondent's seizure of the subject property for more than 4 years nor the respondent's failure to use the property for an urban renewal project for which he had condemned the property for. The respondent refused to return the subject property to the petitioner. The respondent either sold the subject property to a private citizen for a profit of $42,800 or transferred the property to the city of Columbus, Georgia where it could be sold to a private citizen. This action by the respondent is clearly a violation of the petitioner's constitutional rights as well as an unauthorized use of Georgia law authorizing urban renewal projects.

The respondent was created by the State itself and given condemnation powers. The undisputed facts in this case establish that the respondent has far exceeded the power granted to him by the Georgia legislature. The United States District Court for the Middle District of Georgia Columbus Division clearly had subject matter jurisdiction over the respondent, who has misused condemnation powers, given to him by the State itself, to violate state and federal laws and the petitioner's constitutional rights.

Even if the Rooker-Feldman Doctrine applied in this case which it does not, it is clear that the petitioner does not seek to set aside a final state court judgment in this case. A final judgment is not and could not have been a part of the federal complaint filed by the appellant. It is also clear that the respondent condemned the petitioner's private property to be used for an urban renewal project authorized under Georgia law. The respondent never used the subject property for anything but realty property to be sold to a private citizen for profit of $42,800 or to be transferred to the city of Columbus where it could be sold to a private citizen. It is a fact that this action by the respondent was not part of the Superior Court of Muscogee County State of Georgia's final judgment. The petitioner surely has presented some independent claim.

The Rooker-Feldman doctrine asks,

> Is the federal plaintiff seeking to set aside a state judgment or does he present some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party? If the former, then the district court lacks jurisdiction. If the latter, then there is jurisdiction and the state law determines whether the defendant prevails under principles of conclusion.
> *Nary v. Dean,* 32 F3rd 1521, 1524 (11th Cir. 1994)

The complaint submitted herein does not seek to set aside a condemnation judgment entered in the Superior Court of Muscogee County State of Georgia in 1994 nor 1997. There is no basis for the District Court to have dismissed this case for lack of subject matter jurisdiction. The petitioner respectfully prays that such dismissal be overturned.

CONSTITUTIONAL PROVISIONS

> The right of the state to obtain private property for the public purpose of urban redevelopment is qualified by the requirement that the property owner must be permitted to develop his land himself in accordance with the proposed plan, if he so desires and if he has the resources to do so. McCord v. Housing Auth., 246 Ga. 547, 272 S.E.2d 247 (1980).

> Since condemnor has no rights except those expressly granted to it by statute, and those rights can be exercised only, when every prerequisite to their exercise has been fully met. Johnson v. County, 103 Ga. App. 873, 1121 SE. 2d. 54 (1961).

STATEMENT OF THE CASE

The respondent stated in federal court that he seized the subject property for more than 4 years and transferred the property to the city of Columbus, Georgia, and the city of Columbus, Georgia sold

the subject property for a sum of $42,800.00 to a private citizen. The fact is it makes no difference after the respondent seized the subject property for more than 4 years whether the respondent sold the subject property to a private citizen for a profit of $42,800 or transferred the subject property to the city of Columbus, Georgia, where it could be sold to a private citizen. The respondent's actions were clearly a violation of the plaintiff's constitutional rights as well as an unauthorized use of Georgia law, authorizing urban renewal projects. The Georgia Supreme Court declared the 1946 Urban Redevelopment law as unconstitutional to the extent that it permits the condemnation of property for the purpose of selling it to private enterprises for private use.

The Housing Authority of Columbus, Georgia, the respondent, made the following admittances in the United States Federal Court for the Middle District of Georgia Columbus Division.

1) The Housing Authority took the petitioner's private property in 1994, because it needed the property for public use. The Housing Authority, the respondent would not have taken the petitioner's private property without a finding of public necessity.
2) In 1994, the Housing Authority of Columbus, Georgia rejected the petitioner's appeal to get his property back.
3) In 1997, the respondent once again rejected the petitioner's motion to set aside, and this rejection prevented the petitioner from retrieving his private property.

Why are these admittances not evidence of a violation of the petitioner's 4th, 5th, and 14th amendment rights, the U.S. Constitution, the state constitution, and eminent domain laws? Eminent domain laws guarantee that nothing but a public necessity can justify the taking of private property for public use.

Statement of Reason for Granting the Writ

The petitioner has presented to the United States Court of Appeals for the Eleventh Circuit and the United States District Court for the Middle District of Georgia Columbus Division with undisputed facts that the respondent used his condemnation powers granted to him by the state itself to condemn the petitioner's private property for an urban renewal. Project authorize under Georgia law for public use. The Georgia Supreme Court has held that the right f a state to obtain private property for public purpose of redevelopment is qualified by the requirement that the property owner must be permitted to develop his land himself in accordance with the proposed plan, if he so desires and if he has the resources to do so.

The petitioner was not given any opportunity to develop his own property by the respondent, which is a requirement of Georgia state law authorizing urban renewal redevelopment projects. This Georgia state law was ignored by the respondent, as well as the United States Court of Appeals, and the Untied States District Court for the Middle District of Georgia Columbus Division.

The Supreme Court of the United States should grant writ of certiorari based on the fact that the Georgia state law which authorized urban renewal projects was ignored by the United State Court of Appeals for the Eleventh Circuit and the United States District Court for the Middle district of Georgia Columbus Division. This same Georgia state law was violated and ignored by the respondent as well, which inherently violated the petitioner's constitutional rights. No one should be above the law.

CONCLUSION

The petitioner respectfully requests that this court grant the writ of certiorari not just because it is the right thing to do but because of the unusual and uncalled for treatment against the petitioner at the hands of the respondent, who has been created by the state itself and given state powers.

Respectfully submitted,

Logie W. Talley

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